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EXAMINER NIGH, JAMES D				
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/574,546
Filing Date: April 03, 2006
Appellant(s): WILF ET AL.

Karen L. Kaufman
Reg. No. 57,239
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10 January 2011 appealing from the Office action mailed 13 July 2010.

(2) Related Appeals and Interferences

The Examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-3, 5-7 and 9-22.

(4) Status of Amendments After Final

The Examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The Examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The Examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the Examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The Examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,714,918	Hillmer et al.	3-2004
6,070,141	Houvener et al.	5-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

Claims 1-3, 5-7, 9 and 11-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillmer et al. (U.S. Patent 6,714,918, hereinafter referred to as Hillmer).

As per claim 1m,

Hillmer discloses receiving the account identifier (4:38-51, 6:37-65)

Hillmer discloses determining a reliability indicator (Abstract, 2:23-60)

Hillmer discloses providing a reliability indicator (7:42-53, 9:21-10:3, 10:49-58, 12:25-49).

Hillmer does not explicitly disclose "the reliability indicator determined based on at least one of a time the at least one stored personal detail was received and associated with the account identifier, record of an identification procedure performed upon receipt of the at least one stored personal detail, or a record of a degree of personal exposure of an entity submitting the at least one stored personal detail, the at least one stored personal detail retrieved from an account database". However Examiner notes that in Applicant's disclosure the only recitation that is enabled recites that the determination is performed by matching the stored personal detail to the candidate personal detail (page 8, "this comparison between candidate and stored personal details is carried out by seeking a literal match", page 12, "Optional Comparison Module 34 compares candidate and stored personal details to determine whether they match, as described above") and as Hillmer discloses matching (12:39-41), the data used in the matching process cannot be used to distinguish the claimed invention from the prior art as this is simply non-functional descriptive material as the same results would be achieved with Hillmer "Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability [T]he critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate" *In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II

As per claim 2

Hillmer discloses providing stored personal details (7:7-28, 7:42-53, 12:25-49)

As per claim 3

Hillmer discloses comparing a candidate detail against a stored detail (12:25-49, 13:37-48)

As per claim 5

Hillmer discloses recording the date of the transaction (9:21-35) and date periods factoring into the reliability (10:38-40).

As per claim 6

Hillmer discloses information about the transaction medium (6:66-7:6, 7:54-8:6, Table 1.0) and personal exposure (6:46-51).

As per claim 7

Hillmer discloses a connection over the Internet (6:66-7:6)

As per claim 9

Hillmer discloses an identification procedure (4:52-5:2, 6:37-65)

As per claim 11

Hillmer discloses carrying out fraud prevention measures based upon provided said at least one determined reliability indicator (9:21-10:22)

As per claim 12

Hillmer discloses wherein said fraud preventing measures are selected from the group consisting of making a phone call to a verified phone number, sending an email to a verified email address, and physically sending an item to a verified street address (9:21-10:22).

As per claim 13

Hillmer discloses authorizing or denying a transaction based upon provided said at least one determined reliability indicator (5:3-38, 8:23-43, 12:14-49, 14:49-65)

As per claim 14

Hillmer discloses wherein said at least one stored personal detail is selected from the group consisting of account owner's name, a street address, a billing address, an additional address, a phone number, an email address, a government-issued identifier, a mother's maiden name, a social security number (9:21-10:22)

As per claim 15

Hillmer discloses combining a plurality of said reliability indicators to obtain at least one combined reliability indicator (9:21-10:22).

As per claim 16

Hillmer discloses a data receiving unit configured to receive data selected from the group consisting of the account identifier and at least one candidate personal detail (4:38-51, 6:37-65)

Hillmer discloses determining a reliability indicator (Abstract, 2:23-60)

Hillmer discloses providing a reliability indicator (7:42-53, 9:21-10:3, 10:49-58, 12:25-49).

Hillmer does not explicitly disclose "the reliability indicator determined based on at least one of a time the at least one stored personal detail was received and associated with the account identifier, record of an identification procedure performed upon receipt of the at least one stored personal detail, or a record of a degree of

personal exposure of an entity submitting the at least one stored personal detail, the at least one stored personal detail retrieved from an account database". However Examiner notes that in Applicant's disclosure the only recitation that is enabled recites that the determination is performed by matching the stored personal detail to the candidate personal detail (page 8, "this comparison between candidate and stored personal details is carried out by seeking a literal match", page 12, "Optional Comparison Module 34 compares candidate and stored personal details to determine whether they match, as described above") and as Hillmer discloses matching (12:39-41), the data used in the matching process cannot be used to distinguish the claimed invention from the prior art as this is simply non-functional descriptive material as the same results would be achieved with Hillmer "Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability [T]he critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate" *In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II

As per claim 17

Hillmer discloses a data output unit configured to output data selected from the group consisting of said at least one reliability indicator and at least one said stored personal details (7:7-28, 7:42-53, 12:25-49).

As per claim 18

Hillmer discloses a chargeable account database for storing data selected from the group consisting of at least one said stored personal detail, at least one candidate personal detail, at least one said account identifier, and at least one said reliability indicator (12:25-49, 13:37-48).

As per claim 19

Hillmer discloses wherein said reliability indicator provider includes a combining module for combining a plurality of said reliability indicators to produce a combined reliability indicator (9:21-10:22).

As per claim 20

Hillmer discloses a comparison module, for comparing at least one said candidate personal detail with at least one said stored personal detail (12:25-49, 13:37-48).

As per claim 21

Hillmer discloses a comparison module, for comparing at least one said candidate personal detail with at least one said stored personal detail, wherein said data output unit is further configured to send results of said comparison (12:25-49, 13:37-48).

As per claim 22

Hillmer discloses authorizing or denying a transaction based upon provided said at least one determined reliability indicator (5:3-38, 8:23-43, 12:14-49, 14:49-65).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hillmer in view of Houvener et al. (U.S. Patent 6,070,141, hereinafter referred to as Houvener).

As per claim 10:

Hillmer does not explicitly disclose wherein said verifying item is selected from the group consisting of government issued identification, a hand signature and biometric information. Houvener teaches IDs, signatures and biometric information (6:52-67, 9:16-38)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system and method for detecting fraudulent transactions of Hillmer with the system and method of assessing the quality of an identification transaction using an identification quality score of Houvener for the purpose of identifying transactions where heightened scrutiny is warranted.

(10) Response to Argument

Appellant argues that the transaction parameters of Hillmer do not act as a reliability indicator. Examiner respectfully disagrees. Hillmer discloses that the "fraud detection system 108 provides a result or signal 118 to the order processing system 104 signifying whether or not the analyzed transaction parameters 116 indicate that the transaction 100 is likely fraudulent" (5:6-9). Hillmer also discloses that "Alternatively, for credit card transactions, the authorization check includes Address Verification checking" ("AVS") (5:59-60). Hillmer further discloses that "AVS checking performs an additional

check, beyond verifying funds and credit card status, to ensure that elements of the address supplied by the customer 102 match those on record with the issuing company" (5:64-67). In Table 1.0, the first three elements list third party address verification and list 3 possible scores with a negative value indicating that the information is considered most reliable with a more positive value indicating that the AVS is less reliable. Furthermore the transaction parameters shown in Table 1.0 can be tailored as desired by the merchant "For example, the customer status transaction parameter can be defined by each vendor 106, 316, 318" (8:54-55, see also 3:50-57). Claim 1 recites "...determining, using one or more processors, a reliability indicator of at least one stored personal detail associated with the chargeable account, the at least one stored personal detail usable to verify at least one candidate personal detail, the reliability indicator determined based on at least one of a time the at least one stored personal detail was received and associated with the account identifier, a record of an identification procedure performed upon receipt of the at least one stored personal detail, or a record of a degree of personal exposure of an entity submitting the at least one stored personal detail, the at least one stored personal detail retrieved from an account database". Thus using the AVS disclosed by Hillmer (and in this example excluding the other recited transaction parameters of Table 1.0 based on the recitation that the vendor may determine which parameters to include in the score) the AVS score alone would be a determined reliability indicator of at least one stored detail associated with the chargeable account. The AVS is "usable to verify at least one candidate detail" (the customer address) and is based on a record of an identification procedure performed

upon receipt of the at least one stored personal detail" ("AVS checking performs an additional check, beyond verifying funds and credit card status, to ensure that elements of the address supplied by the customer 102 match those on record with the issuing company" (5:64-67)). Thus by tailoring the disclosure of Hillmer in the manner suggested by the disclosure, every element of the recitation of the claim alleged by Appellant as not being taught by Hillmer has been met. A similar example case could be made with the CVV2 or in using the AVS in conjunction with the CVV2.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this Examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/JAMES D NIGH/
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/Calvin L Hewitt II/
Supervisory Patent Examiner, Art Unit 3685

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